

# MEETING MINUTES

## STATE OF WASHINGTON ~ BOARD OF PILOTAGE COMMISSIONERS

July 28, 2011

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### Present:

Chairman: Harry Dudley

Commissioners: Norm Davis, Chuck Adams, Ned Kiley, Pat Hannigan, Dick McCurdy, Doug Coburn

Assistant Attorney General: Guy Bowman

Administration: Shawna Erickson, Peggy Larson

Captains Andy Coe, Pat Kelly, John Harris, Don Mayer, Del Mackenzie, and Mr. Walt Tabler:  
Puget Sound Pilots

Gary Nelson, Mary Nelson: Port of Grays Harbor

Mike Moore, Jordan Royer, Vince Addington: Pacific Merchant Shipping Association

Captain Blair Bouma, Jennie and Peter: PSPD Pilot Candidate and family

Captain Jim Kearns: PSPD Pilot Trainee

Captains Dan Brouillard, Bill Lowery: PSPD Pilot Applicants

Captain Chad Clapp: Pilot aspirant

Ron Kinsey: USCG Sector Puget Sound

Loren Lee: Public

### PUBLIC HEARING

A public hearing of the Board of Pilotage Commissioners was convened at 9:30 a.m. by Chairman Harry Dudley in the Agate Conference Room at 2901 Third Avenue, Seattle, Washington.

**WAC 363-116-200: Duties of Pilots.** This proposed rule is intended to expand the definition of an "Incident" to include situations wherein a pilot or pilot trainee falls while embarking or disembarking a vessel or is physically endangered while performing his/her duties on a vessel, regardless of whether the incident results in physical injury to the pilot or pilot trainee. The proposed modifications further expand the definition of a "Marine Safety Occurrence" to specify that a pilot or pilot trainee can voluntarily report safety issues encountered or observed on the vessel, the dock or in the area around the vessel. Overall it is intended that this rule be broadened to cover not only state licensed pilots but state licensed pilot trainees as well. Oral testimony presented by Walt Tabler, representing the Puget Sound Pilots, included a proposal to modify pilot call-in procedures and define an incident reporting threshold for call-in procedures. He also sought clarification of the term "vessel" in subsection (1)(a) by recommending an amendment to the proposed language.

**WAC 363-116-086: Challenges to Board Actions Concerning Licensing Determinations and Appeal Procedures.** This new WAC, if adopted, would set forth the procedures for challenging the Board's determinations made pursuant to WAC 363-116-080 as to whether a trainee should be issued a pilot license; and would include express notice requirements, procedures for any adjudicative proceeding and pre hearing discovery, and the scope of any hearing and related procedures. There was no written or oral testimony received. The public hearing was closed at 9:35 a.m. by the chairman.

### REGULAR MEETING

The regular meeting of the Board was convened by Chairman Dudley immediately following the hearing.

**Consideration of Preceding Hearing - WAC 363-116-200: Duties of Pilots.** It was determined that Mr. Tabler's proposal exceeded the Board's intended modifications to the rule as set forth in the CR-101.

Motion: Adams/Coburn – the Legislative/WAC Committee will revisit their proposed rule with consideration of discussion heard today for possible inclusion of further amendments – Carried. Committee member, Vince Addington expressed a desire to also examine "reporting responsibility" for those incidents involving both a pilot and a pilot trainee. The committee will prepare a new CR-101 in anticipation of another hearing at a later date.

**Consideration of Preceding Hearing - WAC 363-116-086: Challenges to Board Actions Concerning Licensing Determinations and Appeal Procedures.** The Board's legal counsel, Guy Bowman, described the new rule as a mechanism to handle those challenges by pilot trainees who are not continued in a training program as well as those who are continued in a training program. This rule completes the complement of procedures necessary to address challenges to written pilot exams, simulator evaluations and now, training programs. Motion: Hannigan/Kiley – adopt the new rule as proposed with the editorial corrections noted – Carried. Commissioner Adams abstained.

**Minutes.** The June 9, 2011 Minutes stand approved as written.

**OLD BUSINESS**

**Pilot's Report of Incident: Captain Stephen Cooke - PRABHU JIVESH, 2-22-11.**

Buoy #4 Grays Harbor Bar Channel	Limited propulsion due to sticky puncture valves. 14'-16' WNW swell and ebb current also present. Buoys 8, 6, 2 and GH were cleared.	Vessel allided with Buoy #4	The USCG report was received from Sector Columbia River. Commissioner McCurdy gave a full recap of the details of the incident. <u>Motion:</u> Adams/McCurdy – File as an Incident with Damage and No Pilot Error	Carried
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**Discussion Concerning Setting the Number of Pilots in the Puget Sound Pilotage District.** Commissioner Hannigan reported that during the past six months, traffic in Puget Sound is showing no stable trend from month to month. Overall through June, there have been 35 more jobs in 2011 than in 2010. The set number of pilots stands at 52, one less than the number of licensed pilots. This item will remain on future agendas for discussion purposes only until a resolution for change has potential.

**Consideration of Licensure of PSPD Pilot Candidate: Captain Blair Bouma.** During the month of July Captain Lyle Petke retired and Captain Bill Bundren surrendered his license due to a medical issue. This brings the number of licensed pilots in the Puget Sound District to 51. On behalf of the Trainee Evaluation Committee (TEC) Commissioner Hannigan reported that after a thorough review of Captain Bouma's nine-month *Post-Training Program* the TEC unanimously recommends the issuance of a state pilot license to Captain Bouma. Motion: Hannigan/McCurdy - Issue Captain Blair W. Bouma state pilot license #181 for the Puget Sound Pilotage District - Carried. This action brings the number of licensed pilots in the PSPD to 52 which is the number set by the Board on September 30, 2010. Applause was given to incoming pilot Captain Blair Bouma and outgoing pilots Captains Lyle Petke and Bill Bundren.

**Review and Consideration of Licensure of PSPD Pilot Trainee: Captain James Kearns.** On behalf of the Trainee Evaluation Committee (TEC) Commissioner Hannigan reported that after a thorough review of all Captain Kearns' *Pilot Trainee Trip Reports* submitted to the Board, his successful completion of all conning quizzes and local knowledge exams, and his compliance with all other training requirements, the TEC unanimously recommends to the Board that Captain Kearns is suitable for licensure. A written summary of this recommendation was submitted to the Board and Captain Kearns. Motion: Hannigan/Kiley – the Board deems Captain Kearns qualified for the issuance of a license but delays licensing until there is a need for a pilot in the Puget Sound Pilotage District; and the TEC is granted authority to develop a post-training program, for approval at the next Board meeting, in order for Captain Kearns to continue training with a stipend, if he chooses – Carried.

**NEW BUSINESS**

**2011 Annual Tariff Hearings Preparation.** GHPD – The Grays Harbor Pilots' 5-Year Capital Spending Plan submitted and distributed on July 21<sup>st</sup> was reviewed today. A letter dated July 28, 2011, from the Port of Grays Harbor (PGH) was presented detailing their request for rule amendments to the 2012 Grays Harbor Pilotage District tariff. Motion: Hannigan/Kiley - file a CR-102 reflecting a tariff decrease of 3.33% or effectively \$159 per pilotage job as specified in the PGH letter – Carried. Motion: Coburn/Adams - file the above proposed rule amendments with the Code Reviser for a public hearing to be held October 13, 2011 - Carried.

**Puget Sound Pilots Request for Discussion: Cross Licensing of Pilots for the Grays Harbor District.** After touching on this at the last meeting, Captain Andy Coe furthered the subject of “cross licensing” of pilots for the Grays Harbor District in a letter dated July 14, 2011 to the Board. Pros and cons regarding this concept were presented and discussed. Gary Nelson countered several points made in Captain Coe’s letter and will be formally commenting on them for the Board to consider while it continues to vet this as a viable remedy for filling the need for additional pilots in the Grays Harbor District. Meanwhile the *Pilot Exam Committee* will proceed with the task of preparing to hold an exam to license new pilots for both the PSPD and the GHPD.

**Approval of Pilot License Upgrade Programs: Captains Hannuksela, Thoreson, Moreno.** Captain Steve Moreno is nearing completion of his second license year and Captains Jim Hannuksela and George Thoreson their third. Motion: Hannigan/Adams - approve the license upgrade programs for these three captains as drafted - Carried.

**Proposed Rule Making.** In preparation of the development and administration of the next pilot exam, a CR-101 was filed on July 19<sup>th</sup> regarding the following seven WAC sections: WAC 363-116-0751, 076, 077, 078, 080, 083 and 084. Amendatory language is being drafted by the Legislative/WAC Committee. At the request of the Board’s legal counsel, modifications to Chapter 363-11 WAC are also necessary. Motion: Kiley/Davis – file a CR-101 announcing the Board’s intent to amend WAC 363-11 – Carried. Guy Bowman is drafting amendatory language.

**Consideration of Request for Vessel Exemption:**

**Motor Yacht ROCHADE** – 156’, 492 gross tons, Cayman Islands registry, Captain Craig Martin.  
Motion: Kiley/McCurdy – concur with Chair’s granting of interim three-month exemption – Carried.

**Motor Yacht ALUMERCIA** – 124’, 377 gross tons, Netherlands Antilles registry, Captain Joe Mestrom.  
Motion: Kiley/McCurdy – concur with Chair’s granting of interim annual renewal – Carried.

**Motor Yacht ISLANDER** – 85’, 155 gross tons, Cayman Islands registry, Captain Eric Puijman.  
Motion: Kiley/McCurdy – concur with Chair’s granting of interim annual renewal – Carried.

**Motor Yacht AFTER EIGHT** – 151’, 498 gross tons, Isle of Man - UK registry, Captain Grant Lindsay.  
Motion: Kiley/McCurdy – concur with Chair’s granting of interim annual renewal – Carried.

**Sailing Yacht ERICA XII** – 174’, 279 gross tons, Bermuda registry, Captain Mark Thirkettle.  
Motion: Kiley/McCurdy – concur with Chair’s granting of interim three-month exemption – Carried.

**Motor Yacht PACIFIC TIME** – 76’, 114 gross tons, Australian registry, Captain Graham Comber.  
Motion: Kiley/McCurdy – concur with Chair’s granting of interim one-year exemption – Carried.

**Motor Yacht MERIDIAN** – 161’, 474 gross tons, Cayman Islands registry, Captain Sean Galleymore.  
Motion: Kiley/McCurdy – concur with Chair’s granting of interim one-year exemption – Carried.

**Motor Yacht LATITUDE** – 146’, 494 gross tons, Cayman Islands registry, Captain Storm Higgs.  
Motion: Kiley/McCurdy – concur with Chair’s granting of interim one-year exemption – Carried.

**Sailing Yacht ZENJI** – 183’, 499 gross tons, Cayman Islands registry, Captain Shane Quinlan.  
Motion: Kiley/McCurdy – concur with Chair’s granting of interim one-year exemption – Carried.

**Motor Yacht MONARCH** – 151’, 499 gross tons, Cayman Islands registry, Captain Charles Johnson.  
Motion: Kiley/McCurdy – concur with Chair’s granting of interim three-month exemption – Carried.

***A CLOSED SESSION was called from 12:00 p.m. to 12:30 p.m. to consult with legal counsel regarding ongoing litigation and to review pilot/trainee physical examination reports. In attendance were Chairman Dudley, Commissioners Davis, Kiley, Hannigan, McCurdy, and Coburn; Guy Bowman and Peggy Larson. Commissioner Adams and Shawna Erickson did not attend. Regular session was reconvened by the chairman immediately following closed session.***

**Pilot's Report of Incident: Captain Larry Emerson - *IVS SHIKRA*, 6-5-11.**

Hylebos West Log Dock 2, Tacoma	Pilot was notified by the Port of Tacoma a few days afterward that he damaged the dock during berthing.	Notice of damage claim was rescinded by the Port.	<u>Motion:</u> Kiley/McCurdy File as correspondence because there was no incident.	Carried
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**Pilot's Report of Incident: Captain John Arnold & Trainee Scott Anacker - *TIMARU STAR*, 6-25-11.**

T Pier Port Angeles	Vessel made contact with a piling during docking. May have contributed slight damage to an already damaged dock. Vessel will not be charged for damage.	The dock will be undergoing repairs.	<u>Motion:</u> Adams/Coburn File as correspondence because there was no incident.	Carried
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**Pilot's Report of Marine Safety Occurrence: *ARISTEA M*, 5-24-11.**

Commencement Bay Tacoma	Bunkering was underway. Before assuming duties, the pilot intervened to shut down the transfer upon seeing fuel oil overflowing a vent onto the deck.	Navigational Safety Concern	<u>Motion:</u> McCurdy/Kiley File as a Marine Safety Occurrence	Carried
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**Pilot's Report of Marine Safety Occurrence: *GRANDVILLE BRIDGE*, 5-29-11.**

Buoy "SA" Precautionary area	Overheated engine activated an emergency shutdown. Five minutes later engine was restarted and vessel continued on to Tacoma.	Navigational Safety Concern	<u>Motion:</u> Adams/Davis File as a Marine Safety Occurrence	Carried
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**Pilot's Report of Marine Safety Occurrence: *THEARESTON*, 5-29-11.**

Buoy "TC" enroute from Tacoma	Engines failed to come up to speed due to high exhaust temperature. Slowly proceeded to PA Station but severe weather predictions sent them to Seattle anchorage for repairs.	Navigational Safety Concern	<u>Motion:</u> Kiley/Adams File as a Marine Safety Occurrence	Carried
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**Pilot's Report of Marine Safety Occurrence: *CSL CABO*, 5-29-11.**

Outbound in the Duwamish River near Spokane St. Swing Bridge	Failed to get a prompt response from the bridge tender after two calls. The Board will pursue this issue with the bridge authority after consulting with Foss Maritime.	Navigational Safety Concern	<u>Motion:</u> Davis/Adams File as a Marine Safety Occurrence <u>Motion:</u> Hannigan/Kiley Send a letter to the bridge authority regarding this MSO	Carried Carried
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**Pilot's Report of Marine Safety Occurrence: *ATB SKIPJACK*, 6-15-11.**

northbound near Brace Pt.	Starboard engine was leaking oil. Went to anchor in Smith Cove West for repairs.	Navigational Safety Concern	<u>Motion:</u> Hannigan/Adams File as a Marine Safety Occurrence	Carried
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**Pilot's Report of Marine Safety Occurrence: *APL HONG KONG*, 7-4-11.**

northbound near Bush Point	Leaking hydraulic oil from top of fuel pump for one of engine's cylinders. Stopped for repairs, then inspected by ABS to continue on to Vancouver.	Navigational Safety Concern	<u>Motion:</u> McCurdy/Kiley File as a Marine Safety Occurrence	Carried
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**Pilot's Report of Marine Safety Occurrence: *CLIPPER KASASHIO*, 7-13-11.**

Commencement Bay Tacoma	Fuel oil leak on #3 cylinder. Vessel anchored in Commencement Bay and inspected for permission to continue.	Navigational Safety Concern	<u>Motion:</u> Hannigan/Adams File as a Marine Safety Occurrence	Carried
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## **Committee Reports.**

### **Trainee Evaluation Committee:**

- The TEC met on July 20<sup>th</sup> and July 28<sup>th</sup>.
- Training status of all trainees was reviewed - Captain Anacker is close to finishing his program, Captain Anthony went back to work for a month, Captain Kearns is finished and up for licensing consideration, Captain Engstrom is taking observation trips during the first part of his program, and Captain Bouma is continuing with post-training graduate studies.
- Captain Anacker has been relieved of taking further “hard to get trips” to Bellingham.
- The PSP retirement survey and vessel activity levels were reviewed for purposes of scheduling the entry of future trainees – no recommendations were made at this time.
- Captain D’Angelo and Cooke will be invited to participate in the next TEC meeting to discuss and develop a Grays Harbor pilot training program.
- Necessary amendatory language concerning WAC 363-116-078 will be drafted for Board review.

**Pilot Exam Committee:** Committee members Dudley and Hannigan met on June 29<sup>th</sup> for the first time to organize and begin the necessary steps to prepare for the next pilot exam. Drafting modifications to the seven rules listed on the CR-101 is first priority.

**Legislative/WAC Committee:** Committee Chair Adams stated they will be working on the re-drafting of a CR-101 as well as the amendatory language to WAC 363-116-200: Duties of Pilots.

**Tariff Policy Committee:** Committee Chair Dudley announced that an “Information Bulletin” has been drafted that speaks to a list of issues relative to the activities of our Board. It is not intended to be a “Policy Statement”; however, policies may evolve from it after further examination of some of the issues listed. It will be shared with Board members and stakeholders in the near future.

**Activity Reports.** Mary Nelson, representing Port of Grays Harbor, reported there were 5 ship arrivals in June for 33 arrivals and 74 jobs y-t-d; Captain D’Angelo is on duty in July and will be attending class at Pacific Maritime Institute in August; and there has been an increase in various types of vessel activity, however tonnage is down slightly.

Captain Andy Coe, representing Puget Sound Pilots, reported there were 689 assignments in June; assignments year-to-date for 2011 are 3,715 compared to 3,678 in 2010; no pilots attended any training classes in July; 33 comp days were accrued and 18 used during June, increasing the total by 15 to 3,286 comp days; and three pilots were on major medical during the month. PSP’s Vice President, Captain Del Mackenzie gave an extensive power-point presentation pertaining to Seattle’s East Waterway.

Mike Moore, representing Pacific Merchant Shipping Association, reported that y-t-d through June vessel arrivals are up by 4 – cargo up 38, cruise ships down 13, tank vessels (including ATB’s) down 21; pilot assignments through June are up by 39 and revenue is up \$708,759. The following points were made to provide context related to competitiveness and/or to setting of the number of pilots – grain activity remains strong, cruise ship calls will continue to decrease; tanker traffic should increase over the next year but may not return to the highest levels we’ve seen previously, and container ship calls decreased significantly over the past 4 years but are on the rise.

**Correspondence Review.** In a letter dated 5-27-11 from Gary Nelson, Port of Grays Harbor, a request was made that the Board begin the process of recruiting, testing, training and licensing pilots for the Grays Harbor Pilotage District in either late 2011 or early 2012. The Board’s Pilot Exam Committee has determined that a more realistic target date would be October of 2012; Gary Nelson concurred.

Chairman Dudley received a letter from Puget Sound Partnership asking him to appoint a representative with an experienced background on oil spill-related issues who would represent the interests of Washington pilots and Harbor Safety Committees on a Cross-Partnership Oil Spill Work Group. Motion: McCurdy/Kiley – appoint Captain Andy Coe to this work group – Carried.

**Legal Update.** Guy Bowman reported that both legal activities are continuing concerning Captain Bruce Nelson. The tort law suit goes to trial in February, 2012 and the administrative proceeding is in the final review process and should finish up before the end of this year.

**Administrative Report.** Staff met with its OFM budget analyst last week to finalize the 2011-2013 biennial budget allotments. It is our intent to host the next West Coast Pilotage Authority Regional Meeting in December of 2012 or January 2013.

**Confirmation of Next Regular Meeting Dates.** The next regular meeting is scheduled for Thursday, September 8, 2011 at 9:30 a.m. in the Agate Conference Room, 2901 Third Avenue, Seattle. Commissioners Lee and McCurdy will be unable to attend. The following three Board meetings are scheduled for October 13<sup>th</sup>, November 10<sup>th</sup> and December 8<sup>th</sup>.

**Review of Pilot/Trainee Physical Examination Reports.** Motion: Adams/McCurdy - accept the physicians' reports for Captains S.E. Mork, J.C. Scragg, L.A. Seymour, J.P. Bujacich, I.J. Carlson, W.J. Sliker and D.W. Mayer for annual pilot license renewal; Captain B.W. Bouma for initial pilot licensing; and Captains D.S. Anacker and J.T. Kearns for annual trainee license renewal - Carried. Captain M.I. Johnson remains unfit for duty. Captain D.W. Mayer was declared unfit for duty by Board-designated physician Jon Younger, M.D. on 6-30-11 and was temporarily relieved of duty due to a current medical condition. Captain Mayer was found fit for duty and returned to work on 7-6-11.

There being no further business to come before the Board, Chairman Dudley adjourned the regular session Board meeting at 3:10 p.m.

Respectfully submitted,

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Peggy Larson, Executive Director

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Harry H. Dudley, Chairman

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Commissioner Charles F. Adams

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Commissioner Edmund I. Kiley

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Commissioner Patrick M. Hannigan

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Commissioner Richard F. McCurdy

**Absent**

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Commissioner Craig W. Lee

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Commissioner Douglas S. Coburn

**Absent**

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Norman W. Davis, Acting Vice Chairman

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Commissioner Elsie J. Hulsizer